

### **REMARKS**

This Amendment is responsive to the Official Action mailed June 6, 2003 (Paper No. 27). Entry of this Amendment and reconsideration of the subject application in view thereof are respectfully request.

This amendment is being filed with a Request for Continued Examination (RCE). Applicants respectfully request entry of the amendment along with Request.

### **Claims**

Claims 10, 11 and 14-19 were pending. Claims 10, 11 and 14-19 stand rejected. Applicants hereby authorize the Commissioner to charge any additional claim fees required by entry of this Amendment to Deposit Account No. 04-0480.

Claim 10 has been amended to more clearly recite the present invention. Claims 20-27 have been added to more clearly recite the present invention. Thus, claims 10, 11 and 14-27 are pending. Support for this amendment is provided in detail below. Thus, no new matter is added.

### **Claim Rejections under 35 U.S.C. §103**

#### **Rejection under Purohit, et al.**

Claims 10, 14, 16 and 18 were rejected as under 35 U.S.C. §103(a) as allegedly being unpatentable over Purohit et al. (U.S. Patent No. 4,966,754) for the reasons set forth in the previous Office Action. The Examiner alleges that the teachings of Purohit et al would provide

motivation for the combination of oils such as basil oil as taught by Purohit et al with preservatives to inhibit microorganism growth. Specifically, the Examiner has alleged that although Purohit et al did not specifically teach a specific combination of for example basil oil along with preservatives such as methyl or propyl paraben, it would have been obvious to one of ordinary skill in the art to combine the essential oils taught by Purohit et al with the methyl and propyl parabens as described in the introduction of Purohit et al as being used in conventional cosmetics.

Applicant respectfully traverses this rejection. In particular, claim 10 has been amended to clearly relate to the specific combinations of essential oils (fennel oil or basil oil) or active ingredients thereof (trans-anethole, fenchone or estragole) and benzoic acid/parabens which are demonstrated in the Application to display statistically significant synergy in their anti-microbial action. Moreover, the claim requires that the concentration of fennel oil or basil oil, or active ingredient thereof is between 0.01% to 1%. Thus, the specific combinations to which claim 10 relates are as follows.

- (i) oil of fennel plus methyl paraben, ethyl paraben, propyl paraben or butyl paraben;
- (ii) oil of fennel plus benzoic acid;
- (iii) oil of basil plus methyl paraben, ethyl paraben, propyl paraben or butyl paraben;
- (iv) trans-anethole plus methyl paraben, ethyl paraben, propyl paraben or butyl paraben;
- (v) fenchone plus methyl paraben, ethyl paraben, propyl paraben or butyl paraben;
- (vi) estragole, plus methyl paraben, ethyl paraben, propyl paraben or butyl paraben.

The synergy obtained with oil of fennel plus parabens is described on page 11, paragraph 3; page 13, paragraph 2; Table 1A of page 23; and Table 1B of page 24 of the application as published. The synergy obtained with oil of fennel plus benzoic acid is described on page 11 paragraph 3, Table 1A of page 23 and Table 1B of page 24 of the application as

published. The synergy obtained with oil of basil plus parabens is described on page 12, paragraph 2; and Table 1A of page 24 of the application as published. The synergy obtained with trans-anethole plus parabens is described on page 18 paragraph 2; page 19 paragraph 1; Table 2A of page 26; and Table 2B of page 22 of the application as published. The synergy obtained with fenchone plus parabens is described on page 19, paragraph 2; and Table 2B of page 22 of the application as published. The synergy obtained with estragole plus parabens is described on page 18, paragraphs 2 and 5; Table 2A of page 26; and Table 2B of page 22 of the application as published.

New dependent claims 20 and 21 relate to specific combinations of oil of fennel and methyl parabens or benzoic acid. New dependent claims 22 and 23 relate to specific combinations of oil of basil and methyl parabens or benzoic acid. New dependent claims 24, 25, 26 and 27 relate to medicaments comprising the formulations of claims 20, 21, 22 and 23 respectively.

Applicants respectfully contend that the teachings of Purohit, et al. do not contain each and every element of the invention as claimed in claim 10 as presently amended. For the reasons given in our previous response, we do not believe that the skilled person would be motivated by Purohit et al to attempt to combine an essential oil with such a conventional preservative. Moreover, even if it could be argued that the skilled person could be motivated by Purohit et al to attempt to combine such an essential oil with such a conventional preservative, Purohit et al neither teaches nor suggests that such combinations could be synergistic. As described above, the claims have been clearly limited to specific combinations for which the Application demonstrates synergy. Such a synergistic effect could not be predicted from the

teachings of Purohit et al. Accordingly, the Applicant respectfully submits that the amended claims are not obvious in light of Purohit et al. Withdrawal of rejection is respectfully requested.

Rejection under Purohit, et al. and Zimmerman, et al.

Claims 10-11 and 14-19 were rejected as being unpatentable over Purohit, et al in view of Zimmerman et al for the reasons set forth in the previous Office Action.

Applicants respectfully traverse this rejection. Zimmerman, et al relates to a self-foaming cleanser in which conventional preservatives may be used. Applicants contend that the combined teachings of Purohit, et al. and Zimmerman, et al. do not contain each and every element of the invention as claimed in amended claim 10. Further, these references do not provide the motivation that one of ordinary skill in the art would need to combine them. In fact, these references, when combined, teach away from the claimed invention. Although Zimmerman, et al describes the general use of such conventional preservative compositions for anti-microbial action, it provides no suggestion or motivation that such conventional preservatives should be combined with other preservatives, such as the essential oils taught by Purohit, et al.

Even if it could be argued that one skilled in the art could be motivated by Purohit, et al in view of Zimmerman, et al to combine an essential oil with a conventional preservative, which we deny, neither Purohit et al nor Zimmerman, et al either when considered alone or in combination, provides any motivation to one of ordinary skill in the art to combine the specific essential oils and preservatives of the claim of combinations in order to obtain the synergistic effects demonstrated in the present Application. The ordinary artisan could not and

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would not have a reasonable expectation from the teaching of Purohit, et al and/or Zimmerman, et al that the specific combinations claimed in the pending Application would have afforded the synergistic anti-microbial action as demonstrated in the pending Application. Accordingly, the Applicant respectfully submits that the invention as claimed was not prima facie obvious to one skilled in the art in the time the invention was made. Withdrawal of rejection is respectfully requested.

**FEE DEFICIENCY**

- ☒ If an extension of time is deemed required for consideration of this paper, please consider this paper to comprise a petition for such an extension of time; The Commissioner is hereby authorized to charge the fee for any such extension to Deposit Account No. 04-0480.

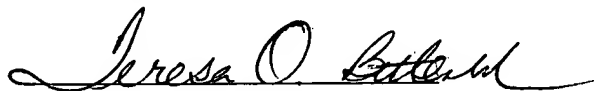
**and/or**

- ☒ If any additional fee is required for consideration of this paper, please charge Account No. 04-0480.

**Closing Remarks**

Applicants thank the Examiner for the Office Action and believe this response to be a full and complete response to such Office Action. Accordingly, favorable reconsideration in view of this response and allowance of the pending claims are earnestly solicited.

Respectfully submitted,



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